

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott  
Edward A. Garvey  
Marshall Johnson  
LeRoy Koppendrayer  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of MAPP  
WIND II, LLC for a Certificate of Need for a  
100-Megawatt Wind Generation Facility

ISSUE DATE: October 2, 2002

DOCKET NO. IP-6158/CN-02-1333

ORDER EXTENDING PERIOD FOR  
COMMISSION ACTION

**PROCEDURAL HISTORY**

On August 2, 2002, MAPP WIND II, LLC (MAPP) filed a petition requesting certain exemptions and variances but its petition was not received by the Minnesota Department of Commerce (the Department) until August 5, 2002. The Company indicated its intent to file a certificate of need application for permission to construct a wind generation facility of approximately 100 megawatts (MW). The generation facility would be a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2 (1) (2001 Supplement).

On August 7, 2002, the Commission issued a notice requesting comment on MAPP II's exemption request. The initial comment and reply comment deadlines given in that notice were August 26 and September 3, 2002, respectively.

The Commission met on August 29, 2002 to consider this matter.

**FINDINGS AND CONCLUSIONS**

The operative certificate of need rules are Minn. Rules, Parts 7849.0010 to 7849.0400. Petitions for exemptions from certain filing requirements are covered by Minn. Rules, Part 7849.0200, subp. 6. The rule provides for a 30-day period for the Commission to review and act upon MAPP II's exemption request.

The Company's request for exemptions and variances and the applicable rules are sufficiently long and complicated that comments from the Department of Commerce and other possible intervenors likely would be very helpful to the Commission in deciding whether to grant the petition as filed. Since the solicitation of meaningful comments takes time, the rule's 30-day review period does not allow sufficient time to review the comments, schedule a meeting, and prepare a written order.

The Commission believes that the three conditions stated in Minn. Rules, Part 7829.3200 the Commission's rule variance rule are met in this case:

- **Excessive Burden:** in light of the fact that the long-term schedule likely will accommodate a review period longer than 30 days and that no party objected to the variance, enforcement of the rule would impose an excessive burden on the Commission, the Department, and other interested persons because of the short times available for comments and final action.
- **Public Interest:** the public interest would be poorly served by inadequate consideration of the exemption request. The Company's certificate of need application may raise issues never before faced by the Commission. Thorough and careful evaluation of what should be in the Company's application is very important.
- **Standards Imposed by Law:** an extension does not conflict with any other standards imposed by law.

Accordingly, the Commission will vary Minn. Rules, Part 7849.0200, subp. 6 to extend the period for Commission action on the exemption request to an unspecified but reasonable period of time, with the understanding that the meeting to review the request will be held as soon as practicable following receipt of the written comments.

### **ORDER**

1. The Commission hereby varies its rule, Minn. Rules, Part 7849.0200, subp. 6, to extend the period for Commission action on the exemption request for an unspecified but reasonable period of time, with the understanding that the meeting to review the request will be held as soon as practicable following receipt of the written comments.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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